

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of FRANCES V. RANSOM and DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE, Oakland, CA

*Docket No. 99-1020; Submitted on the Record;
Issued September 22, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
PRISCILLA ANNE SCHWAB

The issue is whether the Office of Workers' Compensation Programs abused its discretion by refusing to reopen appellant's claim for review of the merits on December 8 and August 20, 1998.

The Board has duly reviewed the case on appeal and finds that the Office did not abuse its discretion by refusing to reopen appellant's claim for consideration of the merits.

This case has previously been on appeal before the Board. In its July 16, 1998 decision, the Board found that appellant failed to meet her burden of proof in establishing an emotional condition due to factors of her federal employment.¹ In that decision, the Board noted that appellant had submitted additional new evidence not previously considered by the Office. The facts and circumstances of the Board's prior decision are adopted herein by reference.

Following the Board's July 16, 1998 decision, appellant requested reconsideration on August 1, 1998. Appellant stated that in light of the Board's decision she requested review of the complete written records of her case. By decision dated August 20, 1998, the Office declined to reopen appellant's claim for review of the merits of her claim. Appellant requested reconsideration on September 10, 1998 and indicated that the Board had not considered the new evidence on appeal. By decision dated December 8, 1998, the Office declined to reopen appellant's claim for review of the merits on the grounds that the evidence submitted was cumulative.

Section 10.138(b)(1) of the Code of Federal Regulations provides that a claimant may obtain review of the merits of the claim by: (1) showing that the Office erroneously applied or interpreted a point of law; or (2) advancing a point of law or a fact not previously considered by the Office; or (3) submitting relevant and pertinent evidence not previously considered by the

¹ Docket No. 96-1622 (issued July 16, 1998).

Office.² Section 10.138(b)(2) provides that, when an application for review of the merits of a claim does not meet at least one of these three requirements, the Office will deny the application for review without reviewing the merits of the claim.³

Following the January 19, 1996 decision of the hearing representative, reviewed by the Board in its July 16, 1998 decision, appellant submitted additional medical evidence. The hearing representative denied appellant's claim as she had failed to establish a compensable factor of employment which caused or contributed to her emotional condition. As appellant has not established a compensable factor of employment, additional medical evidence is not relevant to the issue for which the Office denied her claim and is not sufficient to require the Office to reopen appellant's claim for consideration of the merits.

The decisions of the Office of Workers' Compensation Programs dated December 8 and August 20, 1998 are hereby affirmed.

Dated, Washington, DC
September 22, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Priscilla Anne Schwab
Alternate Member

² 20 C.F.R. § 10.138(b)(1).

³ 20 C.F.R. § 10.138(b)(2).